

TITLE 16. BOARD OF REGISTERED NURSING

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing ("board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held on:

**June 15, 2011 – 1:00 p.m.
Double Tree Hotel
222 North Vineyard Avenue
Ontario, California**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the board at its office no later than 5:00 p.m. on **June 10, 2011**, or must be received by the board at the hearing.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 2715, Business and Professions Code; and to implement, interpret or make specific Sections 315, 315.2, 315.4, 2750, 2759, 2761, and 2762, Business and Professions Code; Sections 11400.20, 11425.50(e) and 11500, Government Code; the board is considering changes to Division 14 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1444.5.

Business and Professions Code Section 2715 authorizes the Board of Registered Nursing ("BRN") to adopt, amend, or repeal regulations as may be necessary to enable it to carry into effect the provisions of laws and regulations relating to the practice of nursing. Government Code Section 11400.20 authorizes an agency, such as the BRN, that uses the Administrative Procedure Act relating to administrative adjudications ("APA" - Chapter 4 [commencing with section 11370], Part 1 of Title 2 of the Government Code) to adopt regulations to govern an APA adjudicative proceeding. Under existing law, (Government Code Section 11425.50), a penalty proposed by an Administrative Law Judge may not be based on a guideline, manual, order, or standard of general application unless it has been adopted as a regulation. The Nursing Practice Act ("NPA" - Business and Professions Code 2700 et seq.) provides that proceedings to

discipline a registered nurse or to deny an applicant for a registered nursing license are to be conducted in accordance with the APA. The NPA specifies grounds for discipline and sanctions that may be imposed against registered nurses that have been determined to have violated the NPA. Article 3.6 (commencing with section 315) of Chapter 4 of Division 1 of the Business and Professions Code provides for the establishment of the Substance Abuse Coordination Committee in the Department of Consumer Affairs ("DCA") which is to develop uniform and specific standards that a DCA healing arts board shall use in dealing with substance-abusing licensees. Existing law also provides for the use of a cease practice order if a licensee tests positive for any substance that is prohibited under the terms of the licensee's probation, if a licensee on probation commits a major violation of his or her probation or when a board order a licensee to undergo a clinical diagnostic evaluation.

Existing regulations provide that in reaching a decision on a disciplinary action under the APA, the BRN shall consider disciplinary guidelines entitled "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (10/02). This regulatory proposal would amend regulation section 1444.5 to reference a revised version of the BRN's disciplinary guidelines entitled "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" (2/11), which is hereby incorporated by reference, and require an Administrative Law Judge to apply the Uniform Standards Related to Substance Abuse where an applicant or licensee has a substance abuse disorder. The disciplinary guidelines would be revised to update the standard and optional terms of probation and include the provisions of the Uniform Standards Regarding Substance-Abusing Healing Arts Licensees adopted by the Department's Substance Abuse Coordination Committee.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500 – 17630 Require Reimbursement: None.

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because it only affects individual licensees.

AND

The following studies/relevant data were relied upon in making the above determination: None.

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because it only affects individual licensees.

Cost Impact on Representative Private Person or Business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The board has determined that the proposed regulations would not affect small businesses because the regulations are applicable only to applicants or licensees who are disciplined by the board.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based. It may be obtained at the hearing or prior to the hearing upon request from the Board of Registered Nursing at 1625 N. Market Blvd., Suite N-271, Sacramento, California 95834 or on the board's website at: www.rn.ca.gov.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior

to the hearing upon request from the Board of Registered Nursing at 1625 N. Market Blvd., Suite N-217, Sacramento, California 95834 or on the board's website: www.rn.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Alcidia Valim
Address: 1625 N. Market Blvd., Suite N-217
Sacramento, CA 95834
Telephone No.: (916) 574-7684 Fax No.: (916) 574-7700
E-Mail Address: Alcidia.Valim@dca.ca.gov

The backup contact person is:

Name: Christina Sprigg
Address: 1625 N. Market Blvd., Suite N-217
Sacramento, CA 95834
Telephone No.: (916) 574-7614 Fax No.: (916) 574-7700
E-Mail Address: Christina.Sprigg@dca.ca.gov

Website Access: Materials regarding this proposal can be found at:
www.rn.ca.gov